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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,696

08/20/2003

Tatsuya Adachi

S004-5096

6705

7590

06/16/2004

ADAMS & WILKS

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50 Broadway

New York, NY 10004

EXAMINER

WELLS, NIKITA

ART UNIT

PAPER NUMBER

2881

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CA

Office Action Summary	Application No. 10/644,696	Applicant(s) ADACHI ET AL.	
	Examiner Nikita Wells	Art Unit 2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-6 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☒ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Tokuda et al. (2002/0050565 A1).

With respect to claim 1, Tokuda et al. disclose (Abstract; Figs. 19 and 20; and paragraphs [0117 to 0119]) a sample manufacturing device, comprising: a sample stage (242) to which an original sample (232) is fixed; a focused ion beam irradiation system for irradiating a focused ion beam (227) from a vertical direction to a specified location on the original sample (232) fixed to the sample stage (242) and a side entry stage [0117], arranged diagonally above the sample stage (242) for inserting a sample stage for specified observation in a diagonal direction with respect to the vertical direction, and supporting the inserted sample holder (233a) for observation so as to be capable of movement in the diagonal direction, wherein a test piece taken out from the specified location of the original sample (232) is fixed to a tip section of the sample holder (233a) for specified observation supported on the side entry stage.

With respect to claims 2 and 4, Tokuda et al. disclose (Abstract; Figs. 3 and 4; and paragraphs [0053] and [0065]) a sample manufacturing device, wherein the side entry stage has the sample holder (72) for specified observation held so that a tip of the sample holder (72) is

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positioned in a space formed by removing the original sample (21) from the sample stage (24), and is further provided with a manipulator (70) attached to a tip of the sample holder (72) for specified observation held on the side entry stage for removing the test piece (22) from a specified place on the original sample (21)[0053]. The tip of the needle comes in contact (at a point 75, Figs. 4 and 10) with a specific location of the original sample (21)[0136].

With respect to claims 3 and 5, Tokuda et al. disclose (Abstract; Figs. 3 and 4; and paragraphs [0050]) a sample manufacturing device, wherein the test piece attached to the tip section of the sample holder for specified observation is irradiated by an ion beam (4) from the focused ion beam irradiation system (31) in the space.

With respect to claim 6, Tokuda et al. disclose (Figs. 10 and 15; paragraphs [0088 and 0136] and claim 13) a sample processing method, wherein the focused ion beam irradiation system comprises a lens barrel provided with first and second irradiation systems (31 and 41), wherein the sample holder (72) for specified observation is inserted, the first irradiation system irradiating (31) an ion beam (4) to a specified place on the original sample (21) fixed to the sample stage (24), and the second irradiation system (41) irradiating an ion beam (4) to the test piece (22) fixed to a tip of the sample holder (72) for specified observation inserted from the lens barrel internal entry stage.

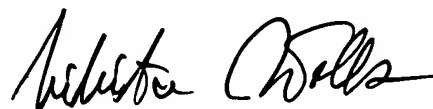
Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Lee can be reached on (571) 272-

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2477. The central fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nikita Wells', with a stylized flourish at the end.

Nikita Wells, Primary Examiner,

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June 8, 2004